

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

IKON OFFICE SOLUTIONS, INC.*

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PLAINTIFF,

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VS.

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CIVIL ACTION No. 2:05CV959-D

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**MARTHA SOUTHERLAND AND
ABS BUSINESS SYSTEMS, INC.**

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DEFENDANTS.

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**MOTION FOR ENTRY OF REVISED SCHEDULING ORDER AND TO
CONTINUE TRIAL DATE**

COME NOW the defendants and respectfully move this Honorable Court for the entry of a revised scheduling order and to continue the trial date. As grounds therefore, defendants show the following:

1. The trial of this matter is currently set for March 26, 2007. Previously the parties requested this court extend the discovery deadline by 30 days and the deadline for the parties' designations of experts by 60 days. The court granted that motion to the extent that the deadline for plaintiff's designation of experts was extended from November 27, 2006 to January 11, 2007. The deadline for defendants' designation of experts

was extended from December 26, 2006 to February 12, 2007, and the deadline for completing discovery was extended from February 9, 2007 to March 9, 2007.

2. Plaintiff recently filed an Unopposed Motion for Clarification and/or Extension of Expert Report Deadlines. The court granted the Motion for Extension ordering that plaintiff's expert reports are due on or before February 14, 2007 and defendants' expert reports are due 7 days later, on or before February 21, 2007.
3. The parties have been working diligently to schedule depositions, but could not agree on the order in which the depositions were to take place. However, they were, in good faith, able to reach an agreement in this respect. Even so, the parties' depositions are not scheduled to begin until January 30, 2007 and continuing through February 1, 2007.
4. The parties conducted a lengthy settlement conference on January 18, 2007 during which a detailed settlement demand was discussed. The parties are currently working toward reaching a settlement agreement and have exchanged additional information since that time which will facilitate settlement discussions and negotiations. Both during and after the conference, defendants for the first time obtained additional

information from plaintiffs in support of their claims which was not previously disclosed to them through discovery or otherwise.

5. As they currently stand, the pre-trial deadlines simply do not afford adequate time to prepare this case for trial. Defendants acknowledge that in retrospect they should have not only requested additional time between the deadlines for submission of the parties' expert reports, but should have requested a continuance of the trial date. Defendants erroneously believed they would have adequate time to depose experts, prepare expert reports and prepare for trial. However, 7 days simply is not adequate time for defendants to review plaintiff's expert reports and in turn prepare their own. Nor does the current trial date afford defendants adequate time to prepare for same in light of recently discovered information as referenced herein.
6. Moreover, defendants will not have adequate time to finish their investigation, which is based upon recently discovered facts, further explore settlement, report to the carrier and obtain authority to settle the case. An extension of the deadlines would, in the event settlement is reached, also allow the parties to avoid incurring additional expenses.
7. As such, defendants now beg the court's indulgence in extending the

trial of this matter and other pre-trial deadlines. For the court's convenience, defendants attache hereto as Exhibit A, a Proposed Revised Scheduling Order which sets all deadlines except the pre-trial conference and trial date. Defendants respectfully ask the court to consider resetting the case for July, 2007. Neither party will be prejudiced by a continuance of the trial date.

WHEREFORE, PREMISES CONSIDERED, defendants respectfully request this Honorable Court enter a Revised Scheduling Order and continue the trial date until July, 2007 or some other time which the court deems appropriate.

Respectfully submitted,

s/ Roderick K. Nelson

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JARROD B. BAZEMORE (ASB-0127-E64J)

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Answer has been served upon the following, postage prepaid and properly addressed, this the 23rd day of January, 2007:

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